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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,667	07/07/2003	Victor Katz	KAT1860-002	7344
8698	7590	11/29/2006	EXAMINER	
STANDLEY LAW GROUP LLP 495 METRO PLACE SOUTH SUITE 210 DUBLIN, OH 43017			RODRIGUEZ, CRIS LOIREN	
			ART UNIT	PAPER NUMBER
			3732	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/614,667	KATZ, VICTOR	
	Examiner	Art Unit	
	Cris L. Rodriguez	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,13,14,18,19,30 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-12,15-17,20-29 and 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/21/03, 4/14/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Figures 4a-5c, claims 1, 2, 5-12, 15-17, 20-29, and 32-34 in the reply filed on September 13, 2006 is acknowledged. The traversal is on the ground(s) that the search for both different species would have not been a burden since both devices are very similar. This is not found persuasive because the reason for insisting upon election of one species, are the facts relied upon for the conclusion that there are claims restricted respectively to two or more patentably different species that are disclosed in the application. The breath of a single disclosed species does not necessitate the examination of the other disclosed species and their concomitant features. The examination of other species would include a determination of the patentability of the species additional features in combination with the subcombination common to all species, which determination amounts to an examination of multiple inventions.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 3, 4, 13, 14, 18, 19, 30, and 31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on September 13, 2006.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3732

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5-12, 15-17, 20-27, 29, and 32-34 are rejected under 35

U.S.C. 102(b) as being anticipated by Miller (US 668,879).

Miller discloses an expandable penetrating needle and its method of performing venipuncture. The needle includes a substantially conical shaped needle shaft 3, a hollow hub 6, and segments 5 and openings 4.

5. Claims 1, 2, 5, 7, 8, 10-12, 15-17, 20, 22, 23, and 25-29 are rejected under 35

U.S.C. 102(b) as being anticipated by Durgin et al (US 6,030,364).

Durgin discloses an expandable penetrating needle (figs. 19-23) including a substantially conical shaped needle shaft 6, a hollow hub 14 with a seal, and segments at the tip portion.


Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form.

Any inquiry concerning this communication should be directed to Cris L.

Rodriguez at telephone number 571-272-4964.

November 26, 2006


Cris L. Rodriguez
SPE
Art Unit 3732